

2001 DRAFTING REQUEST

Bill

Received: 08/06/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Gwendolynne Moore (608) 266-5810

By/Representing: Jessica

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters: nelsorp1

Subject: Courts - civil procedure
Transportation - traffic laws

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Judgments in traffic cases and in municipal court

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 08/06/2001	jdye 08/07/2001					S&L
/1			kfollet 08/07/2001		lrb_docadmin 08/07/2001		S&L
/2	phurley 09/07/2001	jdye 09/07/2001	jfrantze 09/07/2001		lrb_docadmin 09/07/2001	lrb_docadmin 09/20/2001	

FE Sent For:

LA intro.

<END>

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/?	mdsida	1 8/7 jld	kl 8/7	kl/self 8/7			

FE Sent For:

<END>



Gwendolynne MOORE

WISCONSIN STATE SENATOR

Milwaukee

To: Mike Oseda

- ☐ In response to your recent request.
- ☐ I thought you might be interested in the enclosed material.
- ☒ Please review and contact me.

Hi Mike,

Could you please re-draft
this 1999 bill for us, no
changes needed. It is
my understanding that

P. O. Box 7882, Madison, WI 53707-7882

Toll-Free Hotline: 1-800-362-9472 (608) 266-5870 Fax (608) 267-2353

Bob Nelson, the original
drafter, is on vacation
for two weeks.

Thank You
Jessica Clark

P.S. Please call (6-5810)
if there are any questions
you have regarding
this request!

1999 SENATE BILL 436

March 3, 2000 – Introduced by Senators MOORE, PLACHE, ROESSLER and DARLING, cosponsored by Representatives JESKEWITZ, COGGS, LA FAVE, KLUZMAN, MUSSEY, ALBERS, MILLER, AINSWORTH, RYBA, STASKUNAS, OWENS, BOYLE, F. LASEE, VRAKAS, RILEY, J. LEHMAN, GRONEMUS and YOUNG. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to amend** 345.47 (1) (intro.), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a)
2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and **to create**
3 345.47 (4) and 800.09 (3) of the statutes; **relating to:** payment of judgments in
4 traffic cases and in municipal court and the suspension of operating privileges.

Analysis by the Legislative Reference Bureau

Currently, if a person is found guilty of violating a traffic regulation, the court may enter judgment against the defendant for the forfeiture and for any applicable assessments, such as a penalty assessment. In addition, the court may suspend or revoke the person's operating privilege for a period not exceeding one year. This bill requires the court, when entering judgment, to tell the defendant, or to notify the defendant if he or she is not present in court, that he or she should notify the court if he or she is unable to pay the judgment because of poverty. The bill requires the court to determine if the defendant is unable to pay the judgment because of poverty, and if so, to give the defendant the opportunity to pay the judgment in instalments, based on the defendant's income.

Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

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court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for instalment payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in instalments or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an instalment plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an instalment plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered instalment plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 345.47 (1) (intro.) of the statutes, as affected by 1999 Wisconsin Act
2 9, is amended to read:

3 **345.47 (1) (intro.)** If the defendant is found guilty, the court may enter
4 judgment against the defendant for a monetary amount not to exceed the maximum
5 forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if
6 required by s. 302.46 (1), the railroad crossing improvement assessment, if required
7 by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law
8 enforcement assessment, if required by s. 165.755, provided for the violation and for
9 costs under s. 345.53 and, in addition, may suspend or revoke his or her operating
10 privilege under s. 343.30. Upon entering judgment, the court shall notify the
11 defendant personally, if the defendant is present, and in writing that the defendant

1 should notify the court if he or she is unable to pay the judgment because of poverty,
2 as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29
3 (1) (d), determines that the defendant is unable to pay the judgment because of
4 poverty, the court may not suspend the defendant's operating privilege without first
5 providing the defendant with an opportunity to pay the judgment in instalments,
6 taking into account the defendant's income. If the judgment is not paid or if the
7 defendant fails to make any ordered instalment payment, the court shall order:

8 **SECTION 2.** 345.47 (4) of the statutes is created to read:

9 345.47 (4) (a) If the operating privilege of a defendant is suspended under this
10 section, the court may terminate that suspension and substitute an instalment
11 payment plan for paying the amount of the judgment that takes into account the
12 defendant's income.

13 (b) If the operating privilege of a defendant is suspended under this section, the
14 court shall terminate that suspension and substitute an instalment payment plan
15 for the payment of the amount of the judgment that takes into account the
16 defendant's income if all of the following conditions apply:

17 1. The defendant is unable to pay the judgment in full because of poverty, as
18 that term is used in s. 814.29 (1) (d).

19 2. The defendant has not previously failed to comply with an instalment
20 payment plan ordered under this section that takes into account the defendant's
21 income.

22 (c) If the defendant fails to comply with an instalment payment plan ordered
23 under this subsection, the court shall reinstate the suspension of the defendant's
24 operating privilege.

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SECTION 3

1 **SECTION 3.** 800.09 (1) (a) of the statutes, as affected by 1999 Wisconsin Act 9,
2 is amended to read:

3 800.09 (1) (a) The court may defer payment of any judgment or provide for
4 instalment payments. At the time the judgment is rendered, the court shall inform
5 the defendant, orally and in writing, of the date by which restitution and the
6 payment of the forfeiture, the penalty assessment, the jail assessment, the crime
7 laboratories and drug law enforcement assessment, any applicable consumer
8 information assessment and any applicable domestic abuse assessment plus costs
9 must be made, and of the possible consequences of failure to do so in timely fashion,
10 including imprisonment, as provided in s. 800.095, or suspension of the defendant's
11 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,
12 the court shall inform the defendant, orally and in writing, that if the defendant
13 cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),
14 the defendant should so notify the court. If the defendant notifies the court of his or
15 her poverty, the court may not order imprisonment or the suspension of the
16 defendant's operating privilege, except as provided in s. 800.095. If the defendant
17 is not present, the court shall ensure that the information is sent to the defendant
18 by mail. In 1st class cities, all of the written information required by this paragraph
19 shall be printed in English and Spanish and provided to each defendant.

20 **SECTION 4.** 800.09 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9,
21 is amended to read:

22 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
23 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
24 and costs are paid, if the defendant has not done so within 60 days after the date the
25 restitution or payments or both are to be made under par. (a) and has not notified the

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1 court that he or she is unable to comply with the judgment, as provided under s.
2 800.095 (4) par. (a), except that the suspension period may not exceed 5 years. The
3 court shall take possession of the suspended license and shall forward the license,
4 along with a notice of the suspension clearly stating that the suspension is for failure
5 to comply with a judgment of the court, to the department of transportation. This
6 paragraph does not apply if the forfeiture is assessed for violation of an ordinance
7 that is unrelated to the violator's operation of a motor vehicle.

8 **SECTION 5.** 800.09 (3) of the statutes is created to read:

9 800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE. (a) If the operating
10 privilege of a defendant is suspended under this section or s. 800.095, the court may
11 terminate that suspension and substitute an instalment payment plan for paying
12 the amount of the judgment that takes into account the defendant's income.

13 (b) If the operating privilege of a defendant is suspended under this section or
14 s. 800.095, the court shall terminate that suspension and substitute an instalment
15 payment plan for the payment of the amount of the judgment that takes into account
16 the defendant's income if all of the following conditions apply:

17 1. The defendant is unable to pay the judgment in full because of poverty, as
18 that term is used in s. 814.29 (1) (d).

19 2. The defendant has not previously failed to comply with an instalment
20 payment plan ordered under this section that takes into account the defendant's
21 income.

22 (c) If the defendant fails to comply with an instalment payment plan ordered
23 under this subsection, the court shall reinstate the suspension of the defendant's
24 operating privilege.

25 **SECTION 6.** 800.095 (2) (a) (form) of the statutes is amended to read:

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SECTION 6

1 800.095 (2) (a) (form):

2 STATE OF WISCONSIN

3 City/Village/Town

4 State of Wisconsin

5 vs.

6 Defendant(s)

7 THE STATE OF WISCONSIN TO THE DEFENDANT

8 A judgment, a copy of which is attached, has been entered against you for
9 (restitution and) the payment of a civil forfeiture. You were ordered by the court on
10 ..., ... (year) to (make the following payments: ...) (perform the following community
11 service work order: ...) (make the following restitution: ...).

12 You have failed to comply with that order.

13 YOU ARE THEREFORE ORDERED to appear before the Honorable in
14 Courtroom, at the Courthouse, in the City/Town/Village of at a.m./p.m. TO
15 SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE
16 RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE
17 POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER
18 FOR GOOD CAUSE). If (good cause or your ~~indigence~~ poverty has prevented you
19 from paying the forfeiture or making restitution) (good cause has prevented you from
20 complying with the community service work order), the court will modify the order.

21 IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED
22 ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL
23 BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN
24 ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING
25 PRIVILEGE.

SENATE BILL 436

1 Dated:, (year)

2 Signature:.....

3 (Municipal Court Judge)

4 SECTION 7. 800.095 (4) (a) of the statutes is amended to read:

5 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant
6 or summons issued under sub. (1) or the defendant otherwise notifies the court that
7 he or she is unable to comply with the judgment or community service work order,
8 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make
9 restitution or comply with the work order, the court shall determine if the defendant
10 is unable to comply with the judgment for good cause or because of the defendant's
11 indigence poverty, as that term is used in s. 814.29 (1) (d). or is unable to comply with
12 the work order for good cause.

13 SECTION 8. 800.095 (4) (b) (intro.) of the statutes is amended to read:

14 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a
15 hearing conducted under par. (a) or if the court determines at a hearing under par.
16 (a) that the failure of the defendant to comply with the judgment is not for good cause
17 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)
18 (d). or that the failure of the defendant to comply with the work order is not for good
19 cause, the court shall order one of the following:

20 SECTION 9. 800.095 (4) (c) of the statutes is amended to read:

21 800.095 (4) (c) If the court determines that the failure of the defendant to
22 comply with the judgment is for good cause or because of the defendant's indigence
23 poverty, as that term is used in s. 814.29 (1) (d). or that the failure of the defendant
24 to comply with the work order is for good cause, the court may enter an order under
25 par. (b) 2. or 3.

SENATE BILL 436

LRB-3428/1
RPN:jl&cjs:jf
SECTION 10

1 SECTION 10. Initial applicability.

2 (1) This act first applies to violations committed on the effective date of this
3 subsection.

4 (END)

Conversation w/ Jessica

~~Re~~ Need companion bill to 2001 LRB 2479

Dsida, Michael

From: Bilot, Erin
Sent: Monday, August 06, 2001 1:31 PM
To: Dsida, Michael
Subject: Installment Payment Plans

Mike,
I just got off of the phone with Jessica from Sen. Darling's bill. I inadvertently put in last year's LRB number. The number for this year's draft is LRB 2479. We would like to have Senator Moore draft a Senate companion bill.
Thank you,
Erin Bilot
Office of Suzanne Jeskewitz
State Representative
24th Assembly District

2001 BILL

M4D

Sam

Regen

- 1 AN ACT *to amend* 345.47 (1) (intro.), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a)
2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and *to create*
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Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution, and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

BILL

court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for installment payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege, or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in installments or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered installment plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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2 345.47 (1) (intro.) If the defendant is found guilty, the court may enter
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4 forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if
5 required by s. 302.46 (1), the railroad crossing improvement assessment, if required
6 by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law
7 enforcement assessment, if required by s. 165.755, provided for the violation and for
8 costs under s. 345.53 and, in addition, may suspend or revoke his or her operating
9 privilege under s. 343.30. Upon entering judgment, the court shall notify the
10 defendant personally, if the defendant is present, and in writing that the defendant
11 should notify the court if he or she is unable to pay the judgment because of poverty,

BILL

1 as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29
2 (1) (d), determines that the defendant is unable to pay the judgment because of
3 poverty, the court may not suspend the defendant's operating privilege without first
4 providing the defendant with an opportunity to pay the judgment in installments,
5 taking into account the defendant's income. If the judgment is not paid or if the
6 defendant fails to make any ordered installment payment, the court shall order:

7 **SECTION 2.** 345.47 (4) of the statutes is created to read:

8 345.47 (4) (a) If the operating privilege of a defendant is suspended under this
9 section, the court may terminate that suspension and substitute an installment
10 payment plan for paying the amount of the judgment that takes into account the
11 defendant's income.

12 (b) If the operating privilege of a defendant is suspended under this section, the
13 court shall terminate that suspension and substitute an installment payment plan
14 for the payment of the amount of the judgment that takes into account the
15 defendant's income if all of the following conditions apply:

16 1. The defendant is unable to pay the judgment in full because of poverty, as
17 that term is used in s. 814.29 (1) (d).

18 2. The defendant has not previously failed to comply with an installment
19 payment plan ordered under this section that takes into account the defendant's
20 income.

21 (c) If the defendant fails to comply with an installment payment plan ordered
22 under this subsection, the court shall reinstate the suspension of the defendant's
23 operating privilege.

24 **SECTION 3.** 800.09 (1) (a) of the statutes is amended to read:

BILL**SECTION 3**

1 800.09 (1) (a) The court may defer payment of any judgment or provide for
2 instalment installment payments. At the time the judgment is rendered, the court
3 shall inform the defendant, orally and in writing, of the date by which restitution and
4 the payment of the forfeiture, the penalty assessment, the jail assessment, the crime
5 laboratories and drug law enforcement assessment, any applicable consumer
6 information assessment and any applicable domestic abuse assessment plus costs
7 must be made, and of the possible consequences of failure to do so in timely fashion,
8 including imprisonment, as provided in s. 800.095, or suspension of the defendant's
9 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,
10 the court shall inform the defendant, orally and in writing, that if the defendant
11 cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),
12 the defendant should so notify the court. If the defendant notifies the court of his or
13 her poverty, the court may not order imprisonment or the suspension of the
14 defendant's operating privilege, except as provided in s. 800.095. If the defendant
15 is not present, the court shall ensure that the information is sent to the defendant
16 by mail. In 1st class cities, all of the written information required by this paragraph
17 shall be printed in English and Spanish and provided to each defendant.

18 **SECTION 4.** 800.09 (1) (c) of the statutes is amended to read:

19 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
20 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
21 and costs are paid, if the defendant has not done so within 60 days after the date the
22 restitution or payments or both are to be made under par. (a) and has not notified the
23 court that he or she is unable to comply with the judgment, as provided under s.
24 800.095 (4) par. (a), except that the suspension period may not exceed 2 years. The
25 court shall take possession of the suspended license and shall forward the license,

BILL

1 along with a notice of the suspension clearly stating that the suspension is for failure
2 to comply with a judgment of the court, to the department of transportation. This
3 paragraph does not apply if the forfeiture is assessed for violation of an ordinance
4 that is unrelated to the violator's operation of a motor vehicle.

5 **SECTION 5.** 800.09 (3) of the statutes is created to read:

6 **800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE.** (a) If the operating
7 privilege of a defendant is suspended under this section or s. 800.095, the court may
8 terminate that suspension and substitute an installment payment plan for paying
9 the amount of the judgment that takes into account the defendant's income.

10 (b) If the operating privilege of a defendant is suspended under this section or
11 s. 800.095, the court shall terminate that suspension and substitute an installment
12 payment plan for the payment of the amount of the judgment that takes into account
13 the defendant's income if all of the following conditions apply:

14 1. The defendant is unable to pay the judgment in full because of poverty, as
15 that term is used in s. 814.29 (1) (d).

16 2. The defendant has not previously failed to comply with an installment
17 payment plan ordered under this section that takes into account the defendant's
18 income.

19 (c) If the defendant fails to comply with an installment payment plan ordered
20 under this subsection, the court shall reinstate the suspension of the defendant's
21 operating privilege.

22 **SECTION 6.** 800.095 (2) (a) (form) of the statutes is amended to read:

23 **800.095 (2) (a) (form):**

24 **STATE OF WISCONSIN**

25 City/Village/Town

BILL

1 State of Wisconsin

2 vs.

3 Defendant(s)

4 THE STATE OF WISCONSIN TO THE DEFENDANT

5 A judgment, a copy of which is attached, has been entered against you for
6 (restitution and) the payment of a civil forfeiture. You were ordered by the court on
7, (year) to (make the following payments:) (perform the following community
8 service work order:) (make the following restitution:).

9 You have failed to comply with that order.

10 YOU ARE THEREFORE ORDERED to appear before the Honorable in
11 Courtroom, at the Courthouse, in the City/Town/Village of at a.m./p.m. TO
12 SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE
13 RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR ~~INDIGENCE~~
14 POVERTY) (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER
15 FOR GOOD CAUSE). If (good cause or your ~~indigence~~ poverty has prevented you
16 from paying the forfeiture or making restitution) (good cause has prevented you from
17 complying with the community service work order), the court will modify the order.

18 IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED
19 ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL
20 BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN
21 ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING
22 PRIVILEGE.

23 Dated:, (year)

24 Signature:....

25 (Municipal Court Judge)

BILL

1 **SECTION 7.** 800.095 (4) (a) of the statutes is amended to read:

2 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant
3 or summons issued under sub. (1) or the defendant otherwise notifies the court that
4 he or she is unable to comply with the judgment or community service work order,
5 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make
6 restitution or comply with the work order, the court shall determine if the defendant
7 is unable to comply with the judgment for good cause or because of the defendant's
8 indigence poverty, as that term is used in s. 814.29 (1) (d), or is unable to comply with
9 the work order for good cause.

10 **SECTION 8.** 800.095 (4) (b) (intro.) of the statutes is amended to read:

11 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a
12 hearing conducted under par. (a) or if the court determines at a hearing under par.
13 (a) that the failure of the defendant to comply with the judgment is not for good cause
14 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)
15 (d), or that the failure of the defendant to comply with the work order is not for good
16 cause, the court shall order one of the following:

17 **SECTION 9.** 800.095 (4) (c) of the statutes is amended to read:

18 800.095 (4) (c) If the court determines that the failure of the defendant to
19 comply with the judgment is for good cause or because of the defendant's indigence
20 poverty, as that term is used in s. 814.29 (1) (d), or that the failure of the defendant
21 to comply with the work order is for good cause, the court may enter an order under
22 par. (b) 2. or 3.

23 **SECTION 10. Initial applicability.**

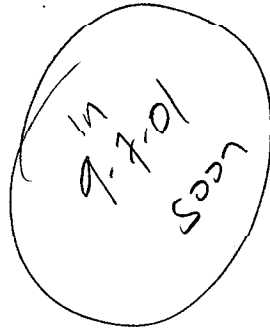
BILL

1 (1) This act first applies to violations committed on the effective date of this
2 subsection.

3 (END)

2
MR
PRM

2001 BILL



Regen

1 AN ACT *to amend* 345.47 (1) (intro.), 800.09 (1) (a), 800.09 (1) (c), 800.095 (2) (a)
2 (form), 800.095 (4) (a), 800.095 (4) (b) (intro.) and 800.095 (4) (c); and *to create*
3 345.47 (4) and 800.09 (3) of the statutes; **relating to:** payment of judgments in
4 traffic cases and in municipal court and the suspension of operating privileges.

Analysis by the Legislative Reference Bureau

Currently, if a person is found guilty of violating a traffic regulation, the court may enter judgment against the defendant for the forfeiture and for any applicable assessments, such as a penalty assessment. In addition, the court may suspend or revoke the person's operating privilege for a period not exceeding one year. This bill requires the court, when entering judgment, to tell the defendant, or to notify the defendant if he or she is not present in court, that he or she should notify the court if he or she is unable to pay the judgment because of poverty. The bill requires the court to determine if the defendant is unable to pay the judgment because of poverty, and if so, to give the defendant the opportunity to pay the judgment in installments, based on the defendant's income.

Under current law, if a defendant is found guilty in municipal court of an ordinance violation, the court orders the defendant to pay a forfeiture, restitution, and applicable assessments and informs the defendant of the date on which the judgment must be paid and of the penalties of failure to pay the judgment, including imprisonment and operating privilege suspension. The bill requires the municipal court to also notify the defendant at the time the judgment is rendered that, if the defendant cannot pay the judgment because of poverty, he or she should notify the

BILL

court. If a judgment is not paid, current law allows the municipal court to defer payments, provide for installment payments of the judgment, allow the defendant to perform community service in lieu of paying the judgment, suspend the defendant's operating privilege, or imprison the defendant for up to 90 days. This bill prohibits the judge from ordering the defendant imprisoned or the suspension of the defendant's operating privilege if the defendant has notified the municipal court of his or her poverty unless the defendant fails to comply with the court order to pay the judgment in installments or to perform community service work.

Currently, a person found guilty of violating a traffic regulation or ordinance who fails to pay the ordered judgment may be imprisoned for up to 90 days or may have his or her operating privilege suspended for 30 days or until the judgment is paid, but not to exceed five years. Under this bill, the court may terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment. The bill requires the court to terminate the ordered operating privilege suspension and substitute an installment plan for the payment of the judgment if the defendant is unable to pay the judgment because of poverty and the defendant has not previously failed to comply with a court-ordered installment plan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
SECTION 1. 345.47 (1) (intro.) of the statutes *as affected by 2001 Wisconsin Act 16,* is amended to read:

345.47 (1) (intro.) If the defendant is found guilty, the court may enter judgment against the defendant for a monetary amount not to exceed the maximum forfeiture, penalty assessment, if required by s. 757.05, the jail assessment, if required by s. 302.46 (1), *the truck driver education assessment, if required by s. 349.04,* the railroad crossing improvement assessment, if required by s. 346.177, 346.495 or 346.65 (4r), and the crime laboratories and drug law enforcement assessment, if required by s. 165.755, provided for the violation and for costs under s. 345.53 and, in addition, may suspend or revoke his or her operating privilege under s. 343.30. Upon entering judgment, the court shall notify the defendant personally, if the defendant is present, and in writing that the defendant should notify the court if he or she is unable to pay the judgment because of poverty.

BILL

1 as that term is used in s. 814.29 (1) (d). If the court, using the criteria in s. 814.29
2 (1) (d), determines that the defendant is unable to pay the judgment because of
3 poverty, the court may not suspend the defendant's operating privilege without first
4 providing the defendant with an opportunity to pay the judgment in installments,
5 taking into account the defendant's income. If the judgment is not paid or if the
6 defendant fails to make any ordered installment payment, the court shall order:

7 SECTION 2. 345.47 (4) of the statutes is created to read:

8 345.47 (4) (a) If the operating privilege of a defendant is suspended under this
9 section, the court may terminate that suspension and substitute an installment
10 payment plan for paying the amount of the judgment that takes into account the
11 defendant's income.

12 (b) If the operating privilege of a defendant is suspended under this section, the
13 court shall terminate that suspension and substitute an installment payment plan
14 for the payment of the amount of the judgment that takes into account the
15 defendant's income if all of the following conditions apply:

16 1. The defendant is unable to pay the judgment in full because of poverty, as
17 that term is used in s. 814.29 (1) (d).

18 2. The defendant has not previously failed to comply with an installment
19 payment plan ordered under this section that takes into account the defendant's
20 income.

21 (c) If the defendant fails to comply with an installment payment plan ordered
22 under this subsection, the court shall reinstate the suspension of the defendant's
23 operating privilege.

24 SECTION 3. 800.09 (1) (a) of the statutes is amended to read:

, as affected by 2001 Wisconsin Act 16,

✓
Insert
A

BILL

SECTION 3

1 800.09 (1) (a) The court may defer payment of any judgment or provide for
2 ~~instalment~~ installment payments. At the time the judgment is rendered, the court
3 shall inform the defendant, orally and in writing, of the date by which restitution and
4 the payment of the forfeiture, the penalty assessment, the jail assessment, the crime
5 laboratories and drug law enforcement assessment, any applicable consumer
6 ~~information~~ ^{protection} assessment, and any applicable domestic abuse assessment plus costs
7 must be made, and of the possible consequences of failure to do so in timely fashion,
8 including imprisonment, as provided in s. 800.095, or suspension of the defendant's
9 motor vehicle operating privilege, as provided in par. (c), if applicable. In addition,
10 the court shall inform the defendant, orally and in writing, that if the defendant
11 cannot pay the judgment because of poverty, as that term is used in s. 814.29 (1) (d),
12 the defendant should so notify the court. If the defendant notifies the court of his or
13 her poverty, the court may not order imprisonment or the suspension of the
14 defendant's operating privilege, except as provided in s. 800.095. If the defendant
15 is not present, the court shall ensure that the information is sent to the defendant
16 by mail. In 1st class cities, all of the written information required by this paragraph
17 shall be printed in English and Spanish and provided to each defendant.

18 SECTION 4. 800.09 (1) (c) ^X of the statutes is amended to read:

19 800.09 (1) (c) The court may suspend the defendant's operating privilege, as
20 defined in s. 340.01 (40), until restitution is made and the forfeiture, assessments
21 and costs are paid, if the defendant has not done so within 60 days after the date the
22 restitution or payments or both are to be made under par. (a) and has not notified the
23 court that he or she is unable to comply with the judgment, as provided under s.
24 800.095 (4) par. (a), except that the suspension period may not exceed 2 years. The
25 court shall take possession of the suspended license and shall forward the license,

BILL

1 along with a notice of the suspension clearly stating that the suspension is for failure
2 to comply with a judgment of the court, to the department of transportation. This
3 paragraph does not apply if the forfeiture is assessed for violation of an ordinance
4 that is unrelated to the violator's operation of a motor vehicle.

5 **SECTION 5.** 800.09 (3)^X of the statutes is created to read:

6 **800.09 (3) JUDGMENT REGARDING OPERATING PRIVILEGE.** (a) If the operating
7 privilege of a defendant is suspended under this section or s. 800.095, the court may
8 terminate that suspension and substitute an installment payment plan for paying
9 the amount of the judgment that takes into account the defendant's income.

10 (b) If the operating privilege of a defendant is suspended under this section or
11 s. 800.095, the court shall terminate that suspension and substitute an installment
12 payment plan for the payment of the amount of the judgment that takes into account
13 the defendant's income if all of the following conditions apply:

14 1. The defendant is unable to pay the judgment in full because of poverty, as
15 that term is used in s. 814.29 (1) (d).

16 2. The defendant has not previously failed to comply with an installment
17 payment plan ordered under this section that takes into account the defendant's
18 income.

19 (c) If the defendant fails to comply with an installment payment plan ordered
20 under this subsection, the court shall reinstate the suspension of the defendant's
21 operating privilege.

22 **SECTION 6.** 800.095 (2) (a) (form)^X of the statutes is amended to read:

23 **800.095 (2) (a) (form):**

24 **STATE OF WISCONSIN**

25 City/Village/Town

BILL

1 State of Wisconsin

2 vs.

3 Defendant(s)

4 **THE STATE OF WISCONSIN TO THE DEFENDANT**

5 A judgment, a copy of which is attached, has been entered against you for
6 (restitution and) the payment of a civil forfeiture. You were ordered by the court on
7, (year) to (make the following payments:) (perform the following community
8 service work order:) (make the following restitution:).

9 You have failed to comply with that order.

10 **YOU ARE THEREFORE ORDERED** to appear before the Honorable in
11 Courtroom, at the Courthouse, in the City/Town/Village of at a.m./p.m. **TO**
12 **SHOW THAT YOU ARE UNABLE TO (PAY THE FORFEITURE OR MAKE**
13 **RESTITUTION FOR GOOD CAUSE OR BECAUSE OF YOUR INDIGENCE**
14 **POVERTY (TO COMPLY WITH THE COMMUNITY SERVICE WORK ORDER**
15 **FOR GOOD CAUSE).** If (good cause or your ~~indigence~~ poverty has prevented you
16 from paying the forfeiture or making restitution) (good cause has prevented you from
17 complying with the community service work order), the court will modify the order.

18 **IF YOU FAIL TO APPEAR AT THE TIME AND PLACE DESIGNATED**
19 **ABOVE, AN ORDER FOR COMMITMENT SHALL BE ISSUED AND YOU WILL**
20 **BE IMPRISONED IN THE JAIL/HOUSE OF CORRECTIONS. IN ADDITION, AN**
21 **ORDER MAY BE ISSUED TO SUSPEND YOUR MOTOR VEHICLE OPERATING**
22 **PRIVILEGE.**

23 Dated:, (year)

24 Signature:....

25 (Municipal Court Judge)

BILL

1 **SECTION 7.** 800.095 (4) (a) ^x of the statutes is amended to read:

2 800.095 (4) (a) If the defendant appears before the court pursuant to a warrant
3 or summons issued under sub. (1) or the defendant otherwise notifies the court that
4 he or she is unable to comply with the judgment or community service work order,
5 the court shall conduct a hearing. If the defendant failed to pay the forfeiture, make
6 restitution or comply with the work order, the court shall determine if the defendant
7 is unable to comply with the judgment for good cause or because of the defendant's
8 indigence poverty, as that term is used in s. 814.29 (1) (d), or is unable to comply with
9 the work order for good cause.

10 **SECTION 8.** 800.095 (4) (b) (intro.) ^x of the statutes is amended to read:

11 800.095 (4) (b) (intro.) If the defendant fails to appear before the court for a
12 hearing conducted under par. (a) or if the court determines at a hearing under par.
13 (a) that the failure of the defendant to comply with the judgment is not for good cause
14 or because of the defendant's indigence poverty, as that term is used in s. 814.29 (1)
15 (d), or that the failure of the defendant to comply with the work order is not for good
16 cause, the court shall order one of the following:

17 **SECTION 9.** 800.095 (4) (c) ^x of the statutes is amended to read:

18 800.095 (4) (c) If the court determines that the failure of the defendant to
19 comply with the judgment is for good cause or because of the defendant's indigence
20 poverty, as that term is used in s. 814.29 (1) (d), or that the failure of the defendant
21 to comply with the work order is for good cause, the court may enter an order under
22 par. (b) 2. or 3.

23 **SECTION 10. Initial applicability.**

BILL

1 (1) This act first applies to violations committed on the effective date of this
2 subsection.

3 (END)

BILL

1 s. 343.30. Upon entering judgment, the court shall notify the defendant personally,
2 if the defendant is present, and in writing that the defendant should notify the court
3 if he or she is unable to pay the judgment because of poverty, as that term is used in
4 s. 814.29 (1) (d). If the court, using the criteria in s. 814.29 (1) (d), determines that
5 the defendant is unable to pay the judgment because of poverty, the court may not
6 suspend the defendant's operating privilege without first providing the defendant
7 with an opportunity to pay the judgment in installments, taking into account the
8 defendant's income. If the judgment is not paid or if the defendant fails to make any
9 ordered installment payment, the court shall order:

Insert A
10 SECTION 2. 345.47 (1) (c) of the statutes, as affected by 2001 Wisconsin Act 16,
11 is amended to read:

12 345.47 (1) (c) If a court or judge suspends an operating privilege under this
13 section, the court or judge shall immediately take possession of the suspended license
14 and shall forward it to the department together with the notice of suspension, which
15 shall clearly state that the suspension was for failure to pay a forfeiture, a penalty
16 assessment, if required by s. 757.05, a truck driver education assessment, if required
17 by s. 349.04, a jail assessment, if required by s. 302.46 (1), a railroad crossing
18 improvement assessment, if required by s. 346.177, 346.495 or 346.65 (4r), and a
19 crime laboratories and drug law enforcement assessment, if required by s. 165.755,
20 imposed by the court, or for failure to comply with an installment payment plan
21 ordered under this section. The notice of suspension and the suspended license, if
22 it is available, shall be forwarded to the department within 48 hours after the order
23 of suspension. If the forfeiture, penalty assessment, jail assessment, truck driver
24 education assessment, railroad crossing improvement assessment, and crime
25 laboratories and drug law enforcement assessment are paid during a period of

BILL

1 suspension, or if the court orders an installment payment plan under sub. (4), the
2 court or judge shall immediately notify the department. Upon receipt of the notice
3 and payment of the reinstatement fee under s. 343.21 (1) (j), the department shall
4 return the surrendered license.

5 **SECTION 3.** 345.47 (1) (d) ^X of the statutes is amended to read:

6 345.47 (1) (d) In addition to or in lieu of imprisonment or suspension under par.
7 (a) or (b), the court may notify the department, in the form and manner prescribed
8 by the department, that a judgment has been entered against the defendant and
9 remains unpaid. The notice shall include the name and last-known address of the
10 person against whom the judgment was entered, the date judgment was entered, the
11 amount of the judgment, the license number of the vehicle involved, certification by
12 the court that a warrant has been served on the person against whom the judgment
13 was entered or, in the case of a judgment entered under s. 345.28, that the person has
14 been notified of the entry of judgment and the judgment remains unpaid and the
15 place where the judgment may be paid. If the person subsequently pays the
16 judgment or the court orders an installment payment plan under sub. (4), the court
17 shall immediately notify the department of the payment or installment plan in the
18 form and manner prescribed by the department. This paragraph does not apply if
19 the court orders an installment payment plan under sub. (1) (intro.) and the
20 defendant makes all installment payments ordered. (end ins A)

21 ~~**SECTION 4.** 345.47 (4) of the statutes is created to read:~~

22 345.47 (4) (a) If the operating privilege of a defendant is suspended under this
23 section, the court may terminate that suspension and substitute an installment
24 payment plan for paying the amount of the judgment that takes into account the
25 defendant's income.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

September 7, 2001

MEMORANDUM

To: Senator Moore

From: Michael Dsida, Legislative Attorney

Re: LRB-3581/2 Judgments in traffic cases and in municipal court

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

____ JACKET FOR ASSEMBLY ~~X~~ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.